

CALIFORNIA COASTAL COMMISSION

South Coast Area Office
200 Oceangate, 10th Floor
Long Beach, CA 90802-4302
(562) 590-5071

Filed: December 11, 1997
49th Day: January 29, 1998
180th Day: June 9, 1998
Staff: John Auyong *John*
Staff Report: December 18, 1997
Hearing Date: January 13-16, 1998
Commission Action:

STAFF REPORT: CONSENT CALENDAR

APPLICATION NO.: 5-97-380

APPLICANT: Jim Haskett AGENT: Fred Leonard

PROJECT LOCATION: A69 Surfside, City of Seal Beach, County of Orange

PROJECT DESCRIPTION: Addition of one new enclosed tandem parking space with seaward encroachment, construction of a covered roof deck access structure (39'6" high) and chimney (41'6" high), and remodeling of the interior of an existing 3 level, 35 foot high single-family residence.

Lot area:	1,112.50 square feet
Building coverage:	793.25 square feet
Landscape coverage:	319.25 square feet
Parking spaces:	Three
Zoning:	Residential Low Density

LOCAL APPROVALS RECEIVED: City of Seal Beach Approval-in-Concept, Height Variation 97-3

SUBSTANTIVE FILE DOCUMENTS: See Appendix A

SUMMARY OF STAFF RECOMMENDATION

Staff is recommending approval of the proposed project with a special condition requiring the recordation of an assumption of risk deed restriction regarding wave hazards.

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

I. Approval with Conditions.

The Commission hereby grants a permit, subject to the conditions below, for the proposed development on the grounds that the development will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

II. Standard Conditions.

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date this permit is reported to the Commission. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Compliance. All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the project during its development, subject to 24-hour advance notice.
6. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
7. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. Special Conditions.

1. Assumption-of-Risk. Prior to issuance of the permit, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, which shall provide: (a) that the applicant understands that the site may be subject to extraordinary hazard from flooding and wave hazards and the applicant assumes the liability from such hazard; and (b) that the applicant unconditionally waives any claim of liability on the part of the Commission and agrees to indemnify and hold harmless the Commission, its officers, agents, and employees relative to the Commission's approval of the project for any damage due to the natural hazards. The document shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens and encumbrances which the Executive Director determines may affect the enforceability of the restriction.

IV. Findings and Declarations.A. Project Description.

The applicant is proposing improvements to an existing 35 foot high, single-family residence. The proposed improvements consist of; 1.) the addition of one new enclosed tandem parking space which would result in seaward encroachment of the first floor, 2.) adding a 366 square foot roof deck and utilities enclosure, 3.) construction of a 36 square foot covered roof access structure (39'6" high) to enclose a new circular staircase to the roof, 4.) construction of a chimney (41'6" high), and 5.) remodeling the interior of the existing residence.

B. Hazards.

Section 30253 of the Coastal Act states, in relevant part:

New development shall:

- (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.

The subject site is located in Surfside Colony, a beachfront community of the City of Seal Beach. The northernmost end of Surfside is subject to uniquely localized beach erosion due to the reflection of waves off the adjacent Anaheim Bay east jetty. These reflected waves combine with normal waves to create increased wave energy that erodes the beach more quickly.

The especially heavy wave action generated during the 1982-83 El Nino winter storms caused Surfside Colony to apply for a coastal development permit for a revetment to protect the homes at Surfside's northern end. The Commission approved coastal development permit 5-82-579 for this revetment, and coastal development permit 5-95-276 for the repair of the revetment. The Commission also approved consistency determinations CD-028-97 and CD-67-97 for the U.S. Army Corps of Engineers to widen Surfside's beach. The revetment and newly widened beach now provide the northern homeowners with some degree of protection from wave hazards.

The southerly extent of the revetment is approximately in front of A-89 Surfside. The subject site is located at A-69, twenty lots south of the southeastern end of the revetment (Surfside addresses decrease in number from north to south). The southern lots, including the subject site, are not subject to the brunt of the erosion hazards. However, the subject site is still subject to extraordinary wave hazards from typical winter storms that have caused flooding of the southern lots in Surfside in the past. Therefore, the Commission finds that it is necessary to require the recordation of an assumption-of-risk deed restriction to put the applicant and future homeowners on notice of the wave hazards and risk of flooding that exists at Surfside.

The assumption-of-risk condition is consistent with prior Commission actions related to Surfside. The Executive Director issued administrative permits 5-86-676 and 5-87-813 which required an assumption-of-risk deed restriction on

applications for improvements to existing structures with seaward encroachment on the first floor, at A-6 and A-21 Surfside. In addition, since the 1982-83 storms, the Executive Director has consistently issued administrative permits which imposed assumption-of-risk deed restrictions on construction of new homes in Surfside, whether on vacant lots or in conjunction with the demolition of an existing home, regardless of location. These permits were from sites ranging from A-2 Surfside near the southeasternmost end to A-100 Surfside near the northwestern most end of Surfside Colony. (see Appendix A)

Therefore, the Commission finds that, as conditioned for an Assumption-of-Risk deed restriction, the project would be consistent with Section 30253 of the Coastal Act.

C. Public Access.

Section 30212 of the Coastal Act states, in relevant part:

(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:

(2) adequate access exists nearby . . .

The subject site is located between the nearest public roadway and the shoreline in the private, gate-guarded community of Surfside. A pre-Coastal, 1966 boundary agreement between Surfside Colony and the California State Lands Commission fixes the boundary between state tide and submerged lands and private uplands in Surfside (see Exhibit B).

The existing residence currently has patios which encroach ten feet seaward past the property line onto land owned by Surfside Colony, Ltd. (which functions as a homeowners association). Surfside Colony leases this ten foot wide strip of land to the adjacent homeowners for the construction of patios. Enclosed living area is not allowed to encroach past the seaward property line onto this ten foot wide strip of land. In past permits, the Commission has allowed the seaward property line to serve as an enclosed living area stringline, and the ten foot wide strip of Surfside Colony land to serve as a deck stringline, to limit seaward encroachment of private development. The proposed development would adhere to these stringlines.

The proposed project would not result in an intensification of use of the site. The proposed development would not result in direct adverse impacts, neither individually nor cumulatively, on physical vertical or lateral public access. Public access, public recreation opportunities and public parking exist nearby in Sunset Beach, an unincorporated area of Orange County at the southeastern end of Surfside. Further, the Commission approved permit P-75-6364 requiring public access through the approved gates nearby at the southeastern end of Surfside during daylight hours.

Therefore, the Commission finds that the proposed development would not result in significant adverse impacts on public access nor public recreation. Thus, the Commission finds that the proposed development would be consistent with Section 30212 of the Coastal Act.

D. Height / Views

Section 30251 of the Coastal Act states, in relevant part:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas.

The proposed development includes a 36 square foot covered roof access structure that would be 39'6" high, and a chimney which would be 41'6" high. The existing residence is 35 feet high. The proposed roof deck would also be 35 feet high. The Commission typically has limited residential structures in Surfside to a 35 foot height limit. This is to minimize the visual effect of a large wall of buildings along the beach which results because most homes are built out on the entire lot except for the required setbacks.

The City received a few letters of opposition to the proposed chimney and covered roof access structure, which exceed the 35 foot height limit. The Commission has in the past allowed chimneys and roof deck stair enclosure/accessways, such as those proposed, to exceed the 35 foot height limit in Surfside for the main structure. Chimneys and stairways typically are small in area and don't constitute significant bulk (such as the 36 square foot proposed stair enclosure).

Further, because most of the homes in Surfside are 35 feet high, and because a fence separates Surfside and Pacific Coast Highway (State Route One, the first public road in the area), public views from Pacific Coast Highway to the beach are already blocked. The proposed chimney and stair enclosure would not exacerbate the situation. Because the proposed chimney and staircase enclosure are located in the middle of the existing residence and not the seaward end, they would not block public views along the coast nor exacerbate the wall-like effect of homes along the beach. Therefore, the Commission finds that the proposed development would be consistent with Section 30251 of the Coastal Act.

E. Local Coastal Program

Section 30604(a) of the Coastal Act provides that the Commission shall issue a Coastal Development Permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with the Chapter Three policies of the Coastal Act.

On July 28, 1983, the Commission denied the City of Seal Beach Land Use Plan (LUP) as submitted and certified it with suggested modifications. The City did not act on the suggested modifications within six months from the date of Commission action. Therefore, pursuant to Section 13537(b) of the California Code of Regulations, the Commission's certification of the land use plan with suggested modifications expired. The LUP has not been resubmitted for certification since that time.

The proposed development, as conditioned for an assumption-of-risk deed restriction, would be consistent with the Chapter Three policies of the Coastal Act. Therefore, the Commission finds that the proposed development would not prejudice the ability of the City to prepare a certified local coastal program consistent with the Chapter Three policies of the Coastal Act.

F. California Environmental Quality Act

Section 13096 of Title 14 of the California Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(i) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment.

The proposed development is located in an urban area. Development already exists on the subject site. All infrastructure necessary to serve the site exist in the area. The proposed project has been conditioned for an assumption-of-risk deed restriction in order to be found consistent with the hazards policies of Chapter Three of the Coastal Act. The assumption-of-risk deed restriction will minimize all significant adverse impacts.

As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned, can be found consistent with the requirements of the Coastal Act to conform to CEQA.

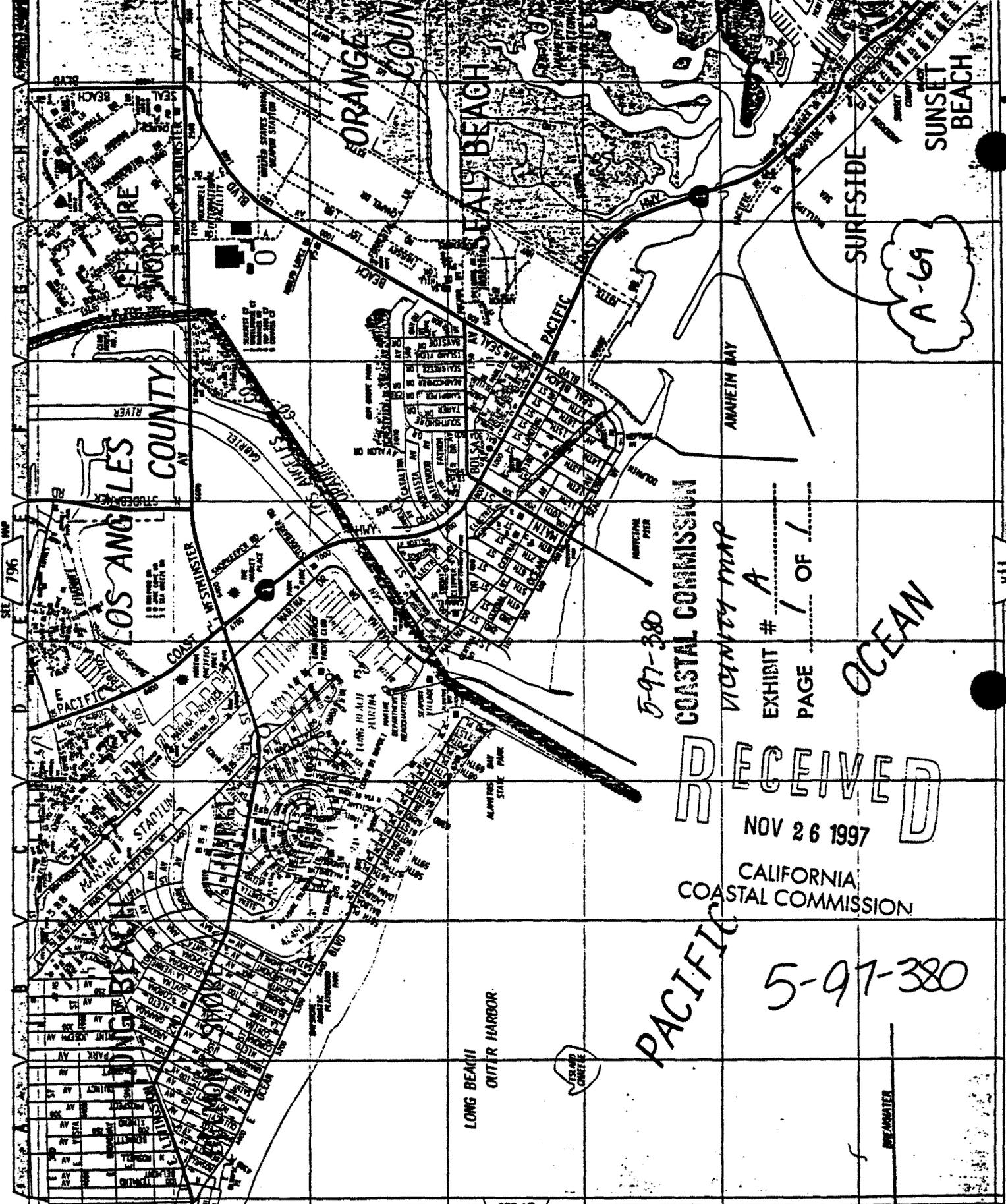
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APPENDIX ASurfside Permits with Assumption-of-Risk Deed Restrictions

<u>Site</u>	<u>Permit #</u>	<u>Project Description</u>	<u>Exceeds Height*</u>
A-2	5-92-450	New SFD on vacant lot	Yes
A-6	5-86-676	Additions to existing SFD, seaward encroachment of first floor	Yes
A-20	5-90-860	Demo. SFD, Construct new SFD	Yes
A-21	5-87-813	Additions to existing SFD, seaward encroachment of first floor	
A-24	5-87-056	Demo. SFD, Construct new SFD	Yes
A-26	5-87-115	Construct new SFD	Yes
A-36	5-92-165	Demo. SFD, Construct new SFD	
A-44	5-88-152	Demo. SFD, Construct new SFD	
A-62	5-87-436	New SFD on vacant lot	Yes
A-62	5-84-068	New SFD on vacant lot	Yes
A-64	5-85-441	Demo. SFD, Construct new SFD	No
A-71	5-82-714	Demo. SFD, Construct new SFD	
A-86	5-85-474	Construct SFD on vacant lot	Yes
A-87	"	"	"
A-88	"	"	"
A-100	5-84-790	Demo. SFD, construct new SFD	Yes

* Where it is known that the plans on file indicate that a chimney or covered roof access structure exceeds the 35 foot height limit.

SFD = Single-Family Dwelling



LA 825 MAP
 COPYRIGHT 1995 Thomas Bros. Maps

5-97-380
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 vicinity map
 EXHIBIT # A
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 CALIFORNIA
 COASTAL COMMISSION

5-97-380

OCEAN

A-69

LONG BEACH
 OUTER HARBOR

PACIFIC

ONE ANCHORAGE

SURFSIDE

SUNSET
 BEACH

LOS ANGELES
 COUNTY

ORANGE
 COUNTY

BEACH

ANNAHEIM BAY

LEISURE
 WOODS

SEE 796

SEE VII

STATE LANDS DIVISION

1807 13TH STREET
SACRAMENTO, CALIFORNIA 95814
(916) 445-3271



*Mike D
Dave*

RECEIVED

NOV 6 1975

November 3, 1975

South Coast Regional Commission

File Ref.: YC-75

South Coast Regional
Conservation Commission
P. O. Box 1450
Long Beach, CA 90801

Attention: Mr. David Gould

Dear Mr. Gould

In reply to your phone request for State boundary line data along the Pacific Ocean at Surfside, Orange County, I refer you to a Record of Survey filed August 23, 1966, in Book 86 R.S., pages 35, 36 and 37, Orange County Recorder's Office.

A copy of the State Lands Commission Minute Item #33, meeting of April 28, 1966, is enclosed for your information.

Sincerely,

Donald J. Brittnacher

DONALD J. BRITTNACHER
Senior Boundary
Determination Officer

DJB:ls

Enclosure

COASTAL COMMISSION

5-97-380
State Lands Boundary
EXHIBIT # 8
PAGE 1 OF 3

75-6364

4/28/66

33. APPROVAL OF BOUNDARY AGREEMENT BETWEEN STATE OF CALIFORNIA AND SURFSIDE COLONY, LTD., A CALIFORNIA CORPORATION, ALONG THE ORDINARY HIGH WATER MARK OF THE PACIFIC OCEAN, VICINITY OF SURFSIDE, ORANGE COUNTY - W.O. 5850, B.L.A. 74.

After consideration of Calendar Item 11 attached, and upon motion duly made and unanimously carried, the following resolution was adopted:

THE EXECUTIVE OFFICER IS AUTHORIZED TO EXECUTE AN AGREEMENT WITH THE SURFSIDE COLONY, LTD., FIXING THE ORDINARY HIGH WATER MARK AS THE PERMANENT BOUNDARY ALONG THE PACIFIC OCEAN BETWEEN STATE TIDE AND SUBMERGED LANDS AND PRIVATE UPLANDS, SAID BOUNDARY LINE BEING DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST SOUTHERLY CORNER OF LOT 1 IN BLOCK A, AS SHOWN ON "RECORD OF SURVEY SURFSIDE COLONY", FILED IN BOOK 4, PAGE 19 OF RECORD OF SURVEYS, COUNTY OF ORANGE, SAID BLOCK A BEING IN FRACTIONAL SECTION 24, TOWNSHIP 5 SOUTH, RANGE 12 WEST, S.B.M.; THENCE S. 49° 26' 59" W. 77.55 FEET TO A POINT ON THE MEAN HIGH TIDE LINE OF 1937, WHICH POINT IS THE TRUE POINT OF BEGINNING OF THIS BOUNDARY LINE AND WHICH IS ALSO SHOWN ON "MAP OF EXISTING HIGH TIDE LINE SURVEYS OF THE PACIFIC OCEAN" PREPARED FOR SURFSIDE COLONY, LTD., BY PETERSEN & HENSTRIDGE, LAND SURVEYORS, IN MARCH 1966; THENCE FROM SAID TRUE POINT OF BEGINNING ALONG THE FOLLOWING COURSES: N. 43° 45' 11" W. 1069.03 FEET, N. 48° 53' 37" W. 1004.50 FEET, N. 49° 52' 36" W. 957.14 FEET AND N. 56° 15' 04" W. 6.74 FEET TO THE END OF THIS BOUNDARY LINE, WHICH ENDING POINT BEARS S. 00° 02' 00" E. 358.85 FEET AND S. 56° 15' 04" E. 20.32 FEET FROM THE QUARTER CORNER BETWEEN SECTIONS 13 AND 24, T. 5 S., R. 12 W., S.B.M.

Attachment
Calendar Item 11 (1 page)

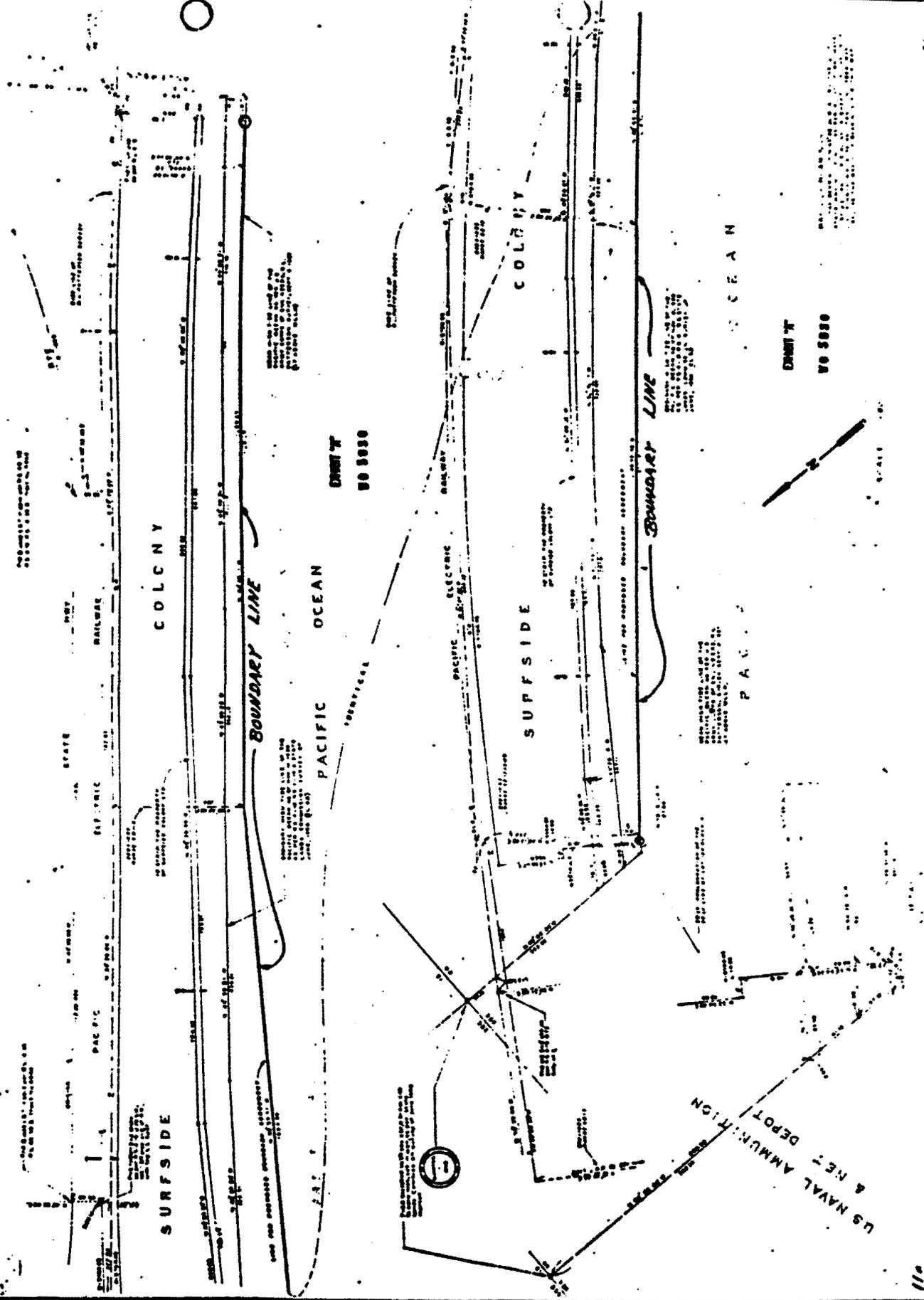
597-380
COASTAL COMMISSION
State Lands Boundary

EXHIBIT # B
PAGE 2 OF 3

SURFSIDE COLONY LTD.

MAP OF EXISTING HIGH TIDE LINE SURVEYS OF THE PACIFIC OCEAN
IN THE UNINCORPORATED TERRITORY OF ORANGE COUNTY, PART OF
FRACTIONAL SECTION 24, TOWNSHIP 8 SOUTH, RANGE 12 WEST, S 8 M.

REGISTERED ENGINEER
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ORANGE COUNTY
NO 8880

ORANGE COUNTY
NO 8880

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Ex. B p. 3 of 3

75 6364

Calendar Item
Exhibit A

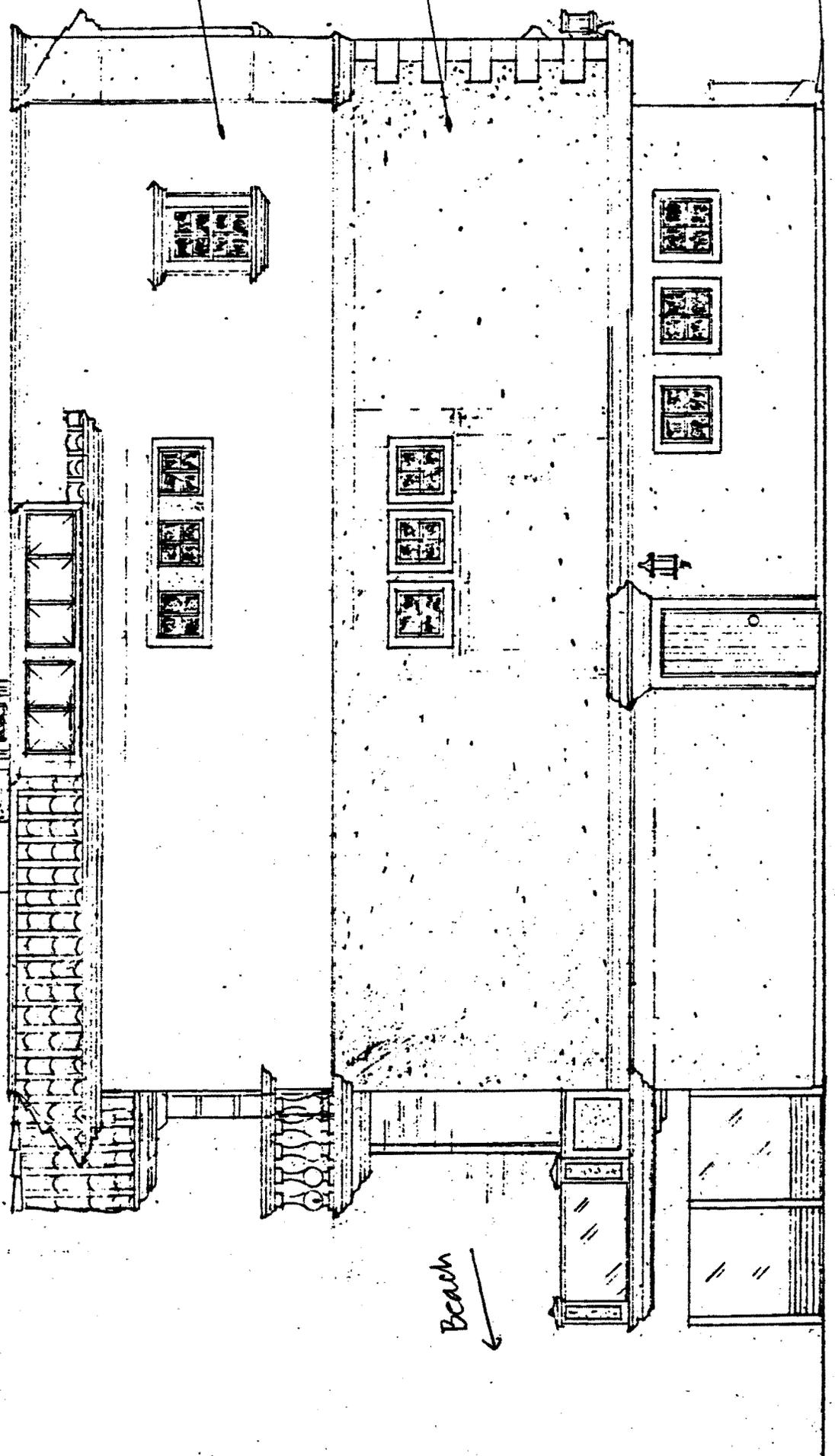
COASTAL COMMISSION
5-97-380: Plans

EXHIBIT #
PAGE 2 OF 8

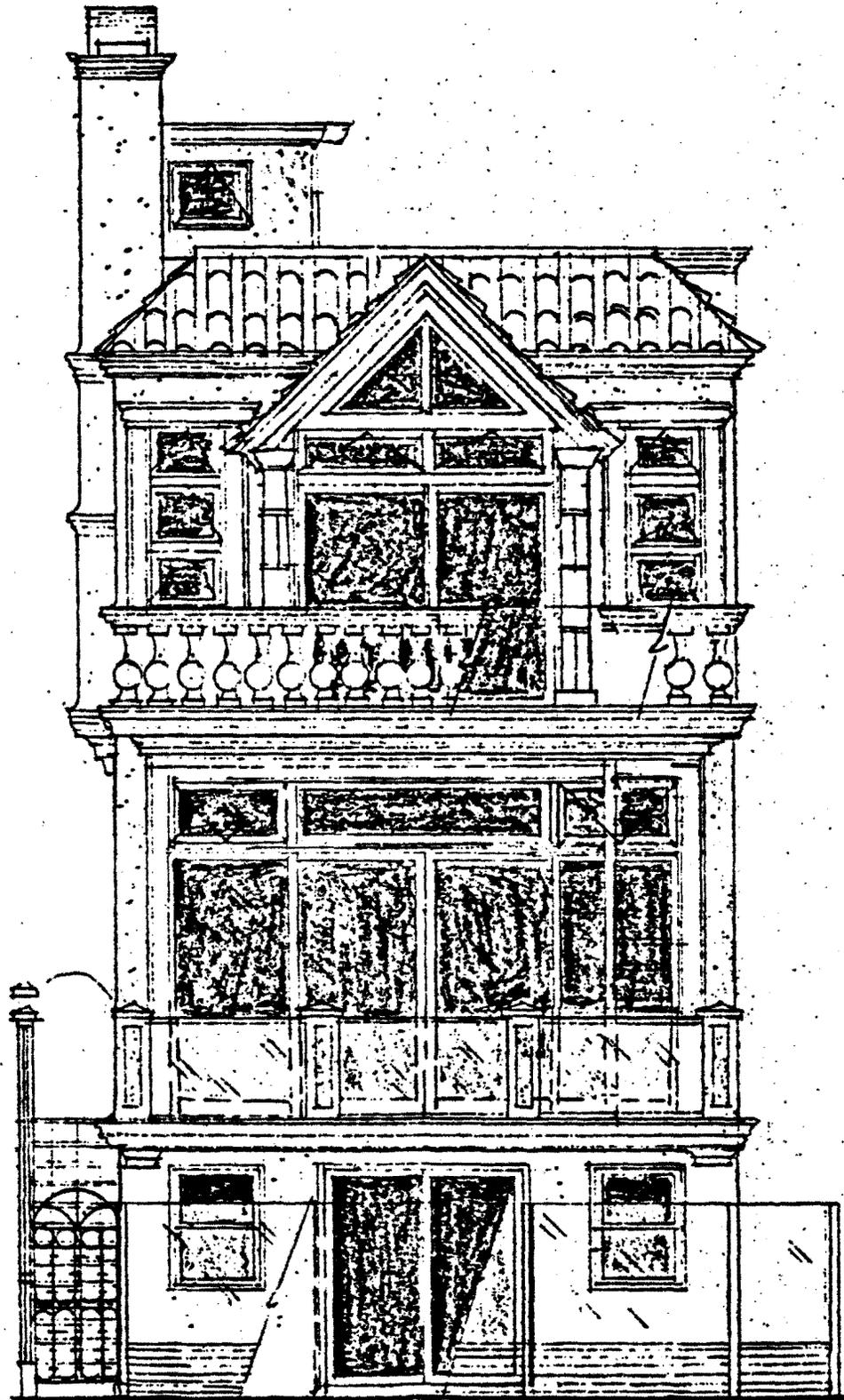
Chimney

Roof
Star
Enclosure

Beach



EAST ELEVATION



5-97-380
COASTAL COMMISSION
Plans

SOUTH ELEVATION

view from beach

EXHIBIT # c
PAGE 3 OF 8

6'-6"
4'-0" 2 1/2"

EAST ELEVATION

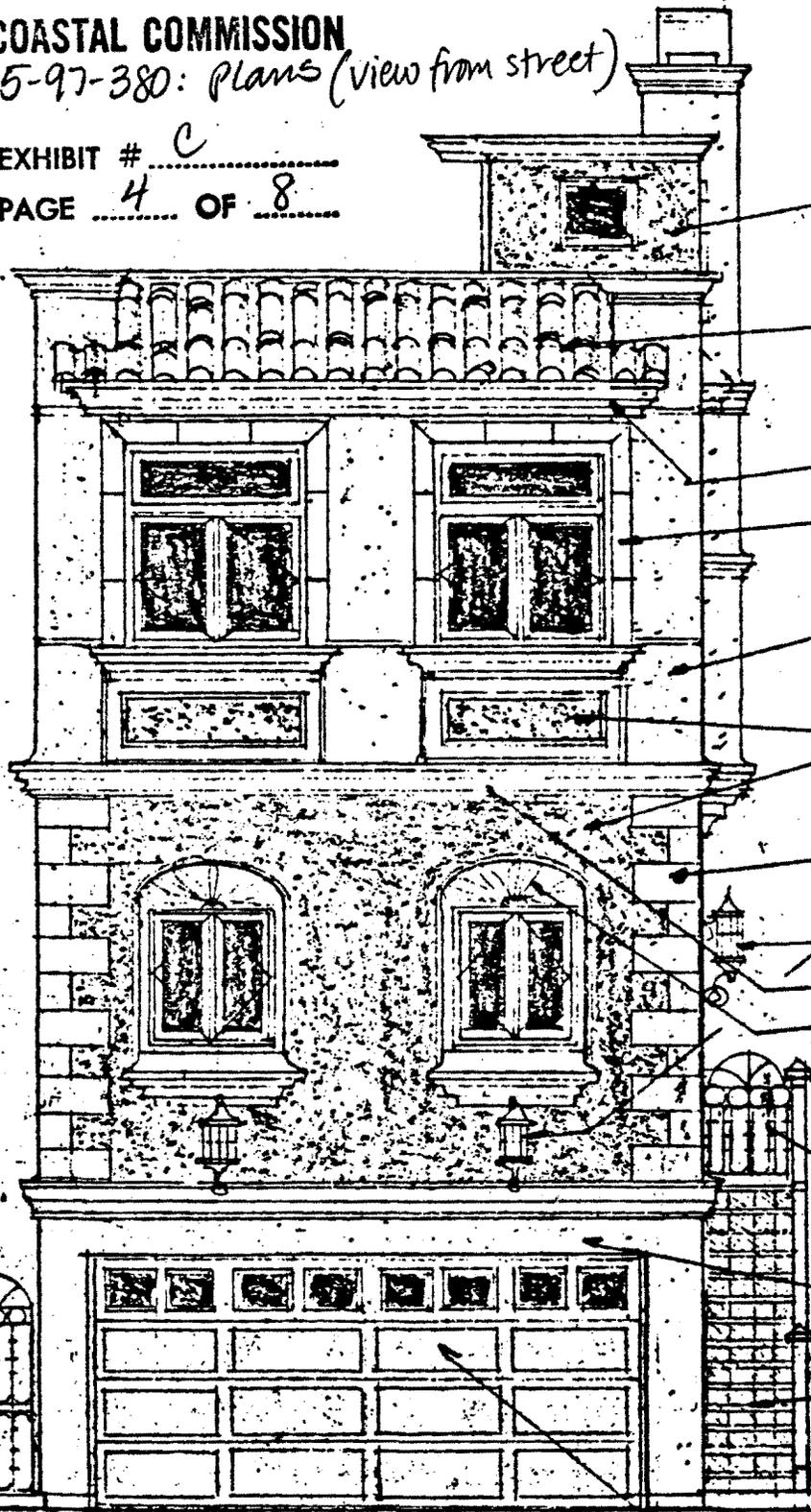
COASTAL COMMISSION

5-97-380: Plans (view from street)

EXHIBIT # C

PAGE 4 OF 8

APPROVED IN CONCEPT
SEAL BEACH PLANNING DEPT.
11/20/97
DATE SIGNATURE



HEAVY TEXTURED STUCCO
AS SELECTED BY OWNER

SPANISH CLAY TILE ROOF
WITH VARI-GATED COLORS
RANDOMLY PACKED WITH
MORTAR PER OWNER

STUCCO FASCIA

PRE-CAST WINDOW
SURROUND

SMOOTH STUCCO
BEDROOM LEVEL

HEAVY TEXTURED STUCCO
AT CENTER PANEL BELOW
WINDOW & AT KITCHEN LEVEL

SCORED STUCCO QUAINS
WITH SMOOTH STUCCO

BRONZE CARRIAGE LAMP
STUCCO TRIM

CAST DECORATIVE PLASTER
ARCH. & SMOOTH STUCCO
WINDOW SURROUND &
ARCH

WROUGHT IRON GATES
GALVANIZE & POWDER
COAT.

SMOOTH STUCCO GARAGE
LEVEL

TILE DECKS & STAIRS

WOOD GARAGE DOOR W/
GLAZED TRANSOM

WET.
NS
ERS
DRAL
PERED
MR
PAVING
L
STAIR

NORTH ELEVATION

1/4" = 1'

ELEVATIONS

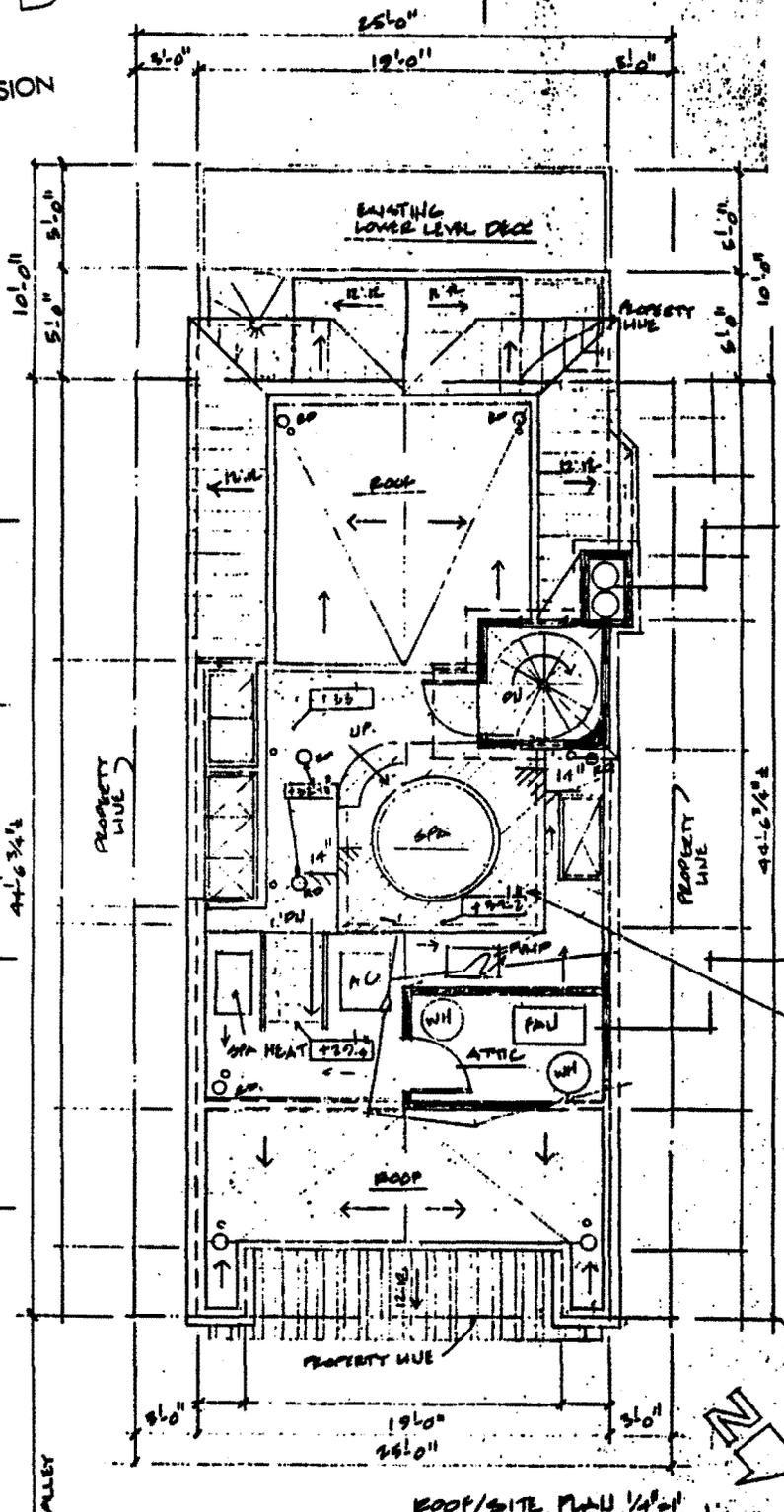
APPROVED
Permit No. 5-97

By: _____

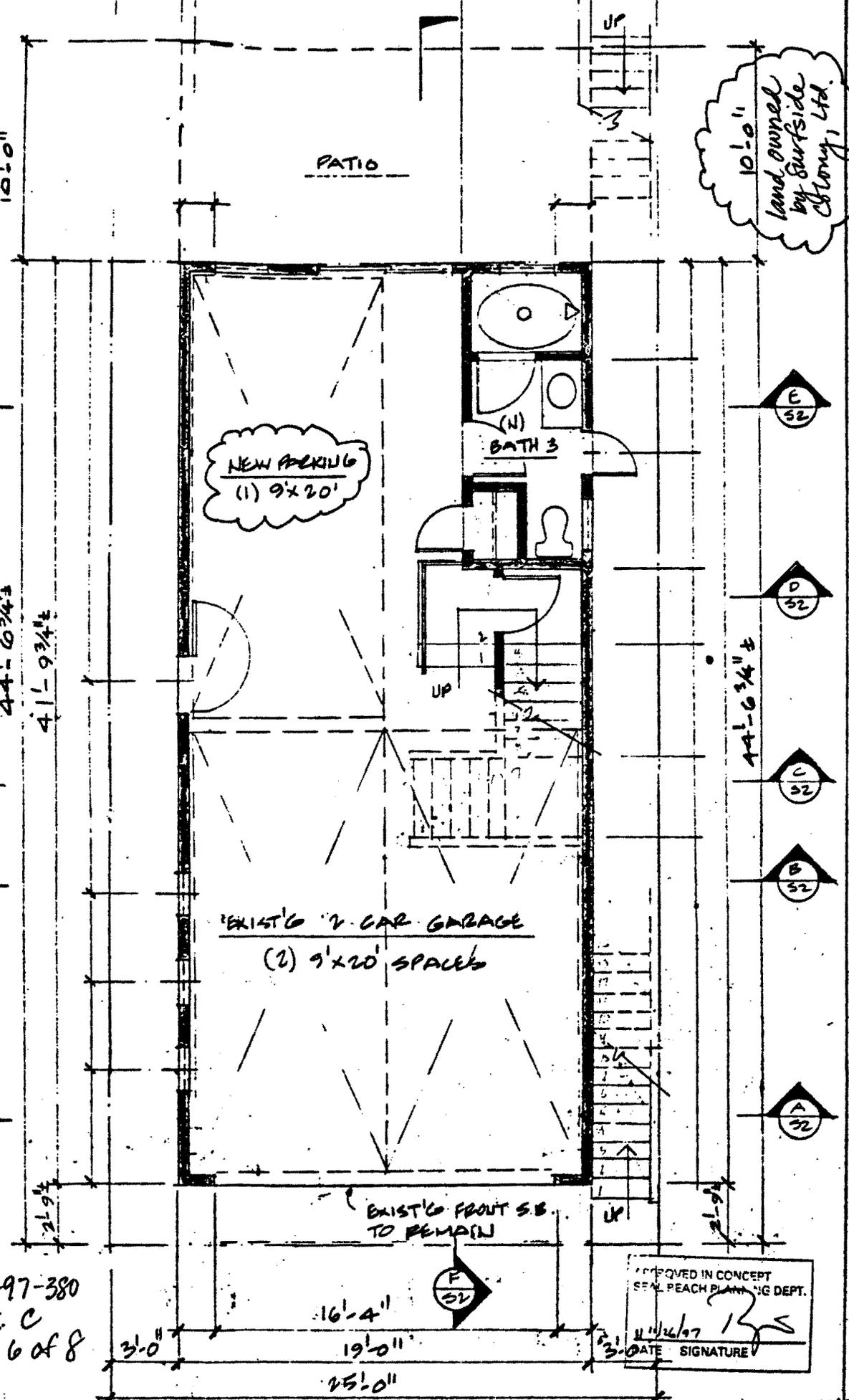
EXPIRES
Date: _____

5-97-380
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5-97-380
COASTAL COMMISSION
Plans: roof
EXHIBIT # C
PAGE 5 OF 8



COT. C.Y.R. 15/12/1

2 STORY RESIDENCE REMOVAL
69A SURFSIDE
SANTA MONICA, CALIFORNIA

SEIJER ARCHITECTS
1046 CALLE PECHO SUITE C
SAN CLEMENTE, CA 92707

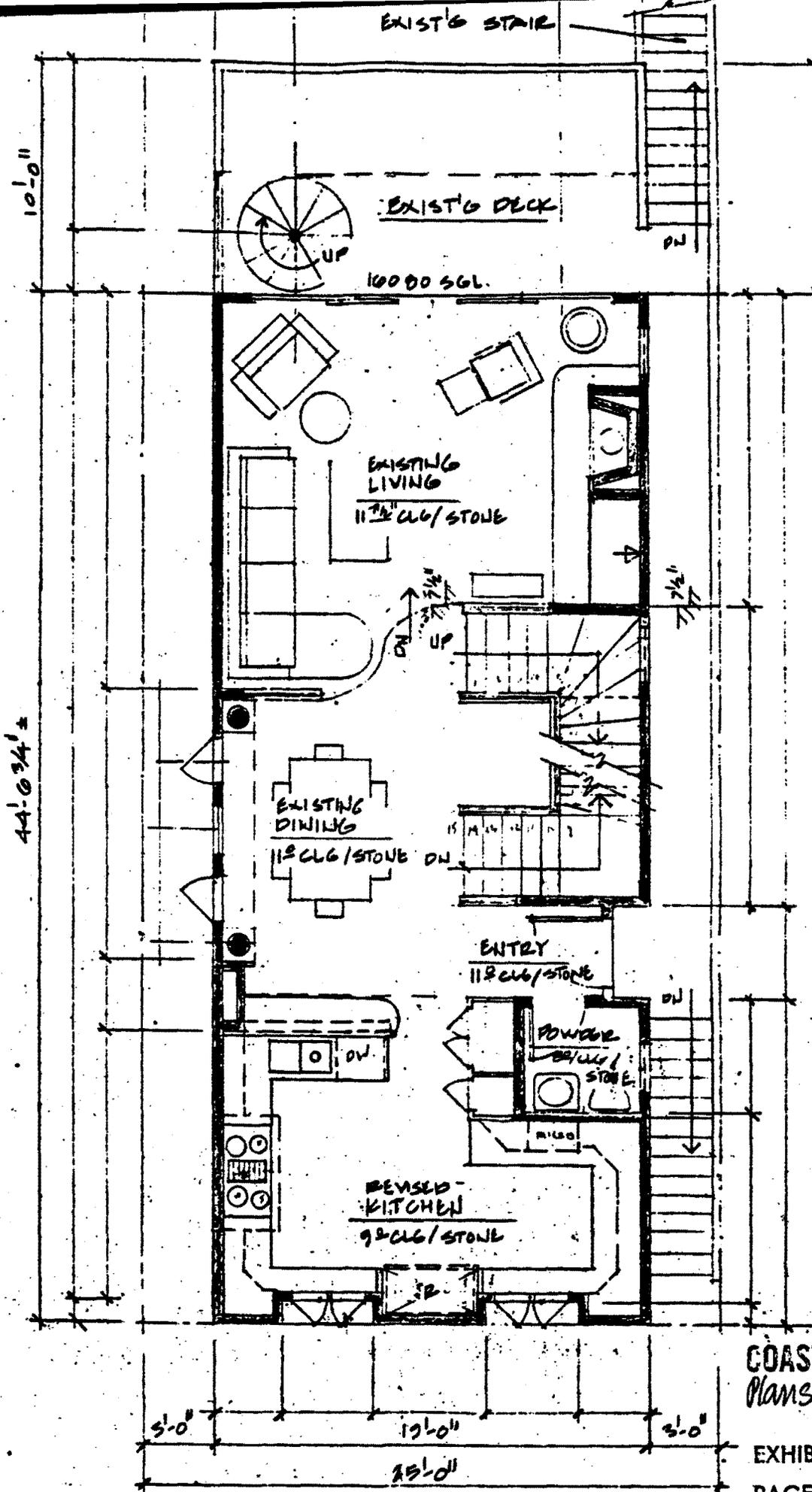
9-12-
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APPROVED IN CONCEPT
SANTA MONICA PLANNING DEPT.
DATE: 11/16/97
SIGNATURE: [Signature]

5-97-380
EX. C
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BASEMENT GARAGE LEVEL

South Coast District Office
APPROVED Permit No. 5-97-380



10 foot wide strip of land

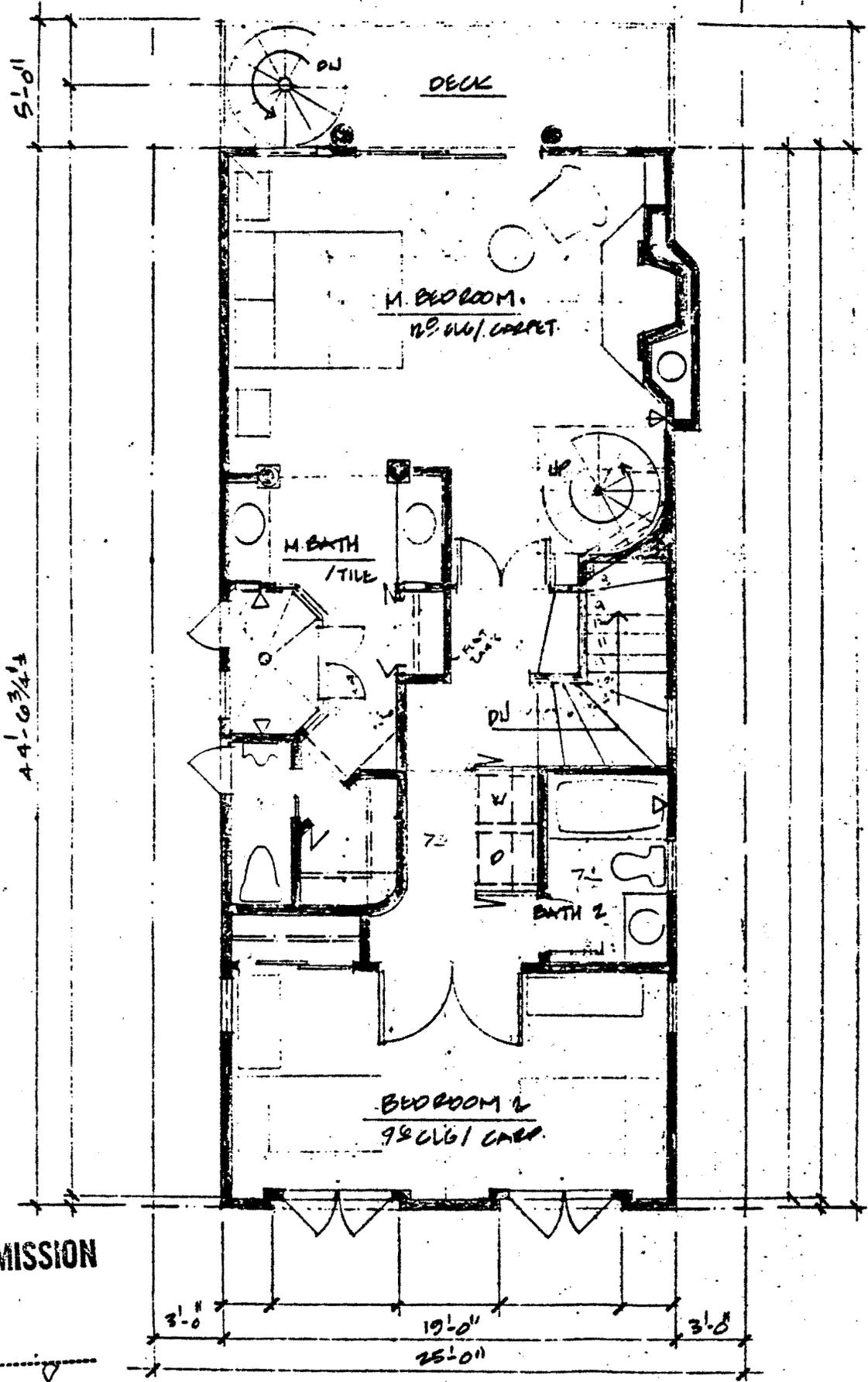
44'-0 3/4"

5-97-380

COASTAL COMMISSION
Plans

EXHIBIT # c
PAGE 7 OF 8

FIRST FLOOR LEVEL.



5-97-380
COASTAL COMMISSION
 Plans

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SECOND FLOOR LEVEL

